



Stephanie Rawlings-Blake
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT



Thomas J. Stosur
Director

April 3, 2014

REQUEST: City Council Bill 14-0336/ Zoning – Conversion of 1- or 2-Family Dwellings

For the purpose of specifying that the conversion of 1- or 2-family dwellings for use by additional families must conform with the applicable principal-permitted-use bulk regulations for the district in which the building is located; clarifying that this conversion authority does not apply to districts in which only single-family dwellings are allowed; and generally relating to the conversion of buildings for use by additional families.

RECOMMENDATION: Approval

STAFF: Martin French

PETITIONERS: Council President Young and Councilmembers Clarke, Cole, Henry, Middleton, Kraft, Curran, Holton, Stokes, Mosby, Scott, Branch, and Reisinger

OWNERS: Multiple, various, of residential-use properties in Zoning Districts (other than the R-2, R-4, R-5, and R-6 Districts) where conversion of existing structures to additional dwelling units is authorized in the Zoning Code and where multiple-family dwellings are allowed

SITE/ GENERAL AREA

Site Conditions: This legislation would apply to all sites in the City where conversion of a 1-family or a 2-family dwelling could be authorized according to the provisions of the Zoning Code.

General Area: This legislation would be applicable City-wide.

HISTORY

The current Zoning Code was adopted in April 1971, and has had numerous amendments, the most recent of which was Ordinance 12-40 dated June 26, 2012, which made conversion of a 1- or 2-family dwelling to additional dwelling units in R-7 and R-8 Districts approvable by a conditional-use ordinance.

CONFORMITY TO PLANS

The proposed action is consistent with LIVE EARN PLAY LEARN, the Comprehensive Master Plan for Baltimore, LIVE Goal 1, Objective 1: Expand housing choices for all residents; LIVE Goal 1, Objective 2: Strategically redevelop vacant properties throughout the City; LIVE Goal 1, Objective 5: Increase the City's population by 10,000 households (this is

also a Mayoral priority goal for Baltimore); and LIVE Goal 2, Objective 2: Streamline and strengthen the development process by modernizing the zoning code to meet current needs.

ANALYSIS

The Zoning Code, in its §3-305.b, states:

“(b) *Conditional use conversion – authorized.*

- (1) In all districts except the R-2, R-4, R-5, and R-6 Districts, the Board may authorize, as a conditional use, the conversion of a building for use by more than 1 family, as long as the number of families permitted conforms with the applicable bulk regulations for the district in which the building is located.
- (2) ...
- (3) (i) in the R-7 and R-8 Districts, the conversion of a 1- or 2-family dwelling to additional dwelling units may be authorized, but only by a conditional-use ordinance.”

R-1 and R-3 Districts are single-family residential districts in which multiple-family dwellings of any type are not authorized, and thus no conversions to additional dwelling units may be approved there by the Board of Municipal and Zoning Appeals (“the Board”) or by ordinance. The effect of §3-305.b. is thus confined to the R-7, R-8, R-9, R-10 General Residence Districts and to Office-Residence Districts and Business Districts where dwellings, including multiple-family dwellings, are allowed.

In Office-Residence and Business Districts there is only one set of bulk requirements for dwellings (§5-206, §6-211, §6-311, and §6-411) and there are no lot area bulk requirements in B-4 or B-5 Districts. General Residence Districts have two sets of lot area requirements in their bulk regulations: lot area and coverage for “permitted uses” and lot area and coverage for “conditional uses”. Each of these General Residential Districts’ regulations contains identical language stating:

“(c) *Conditional uses.*

Principal conditional uses in an [name of R-District] District must comply with the minimum lot area and the maximum lot coverage requirements for single-family detached dwellings, except as follows:”

Each General Residence District’s subsection of the Zoning Code then lists minimum lot area requirements for specific uses such as bed and breakfast homes or housing for the elderly.

Separately, under each of these same General Residence Districts’ bulk regulations there appears a list of lot area requirements for Permitted uses. Each subsection begins:

“Each principal permitted use in an [name of R-District] District must comply with the following requirements for minimum lot area and for the maximum percentage of a lot that may be covered by structures:”

Under this heading then appear minimum lot area requirements for permitted uses, including “Multiple-family dwellings”. These lot area requirements apply to all multiple-family dwellings without distinction in a R-7 District, but in a R-8 District provide differing lot area

requirements for dwelling units and for efficiency units, and in R-9 and R-10 Districts provide requirements for dwelling units, efficiency units, and rooming units.

Historically the Board and the City Council distinguished between residential conversion as a conditional use, and what the Zoning Code refers to as “Principal conditional uses” listed under its sections pertaining to the R-7, R-8, R-9, and R-10 Districts. As a result, because the end-product of a residential conversion would be a multiple-family dwelling which was listed as a permitted use in the particular zoning district, when the calculation of required lot area, and/ or of any variance of that required lot area, was made, the calculation was based upon the lot area listed under “permitted uses” for that zoning district.

As recently as a few months ago this Commission recommended approval of some zoning bills that would authorize conversions of structures to multiple-family dwellings in R-7 or R-8 Districts on the basis of this logic. However, at the City Council Land Use and Transportation Committee hearings of these bills, the Law Department stated that it could not approve the bills for legal sufficiency because they were using incorrect calculations of lot area variances that were based on a distinction that was on its face incorrect, namely, that conditional use conversions of dwellings needed to comply with the Zoning Code statement that conditional uses not itemized must comply with the minimum lot area and maximum lot coverage requirements for single-family dwellings.

Because in all of the General Residence Districts except R-2 Districts, where the lot area requirement is 7,300 square feet, the minimum lot area for a single-family dwelling is 5,000 square feet, the practical effect of this legal opinion was to stymie residential conversions of 1- or 2-family dwellings to additional dwelling units, due to the far smaller lot areas found in those zoning districts. This legislation was then introduced to make clear the original intent of the Mayor and City Council, that the bulk standards to be applied to determining both calculation and approvability of these conversions should be the lot area and lot coverage standards itemized under each General Residence District’s regulations for permitted uses.

Because the R-7, R-8, and R-9 Districts in particular contain many large older dwellings which are no longer marketable because average household size has been reduced in the course of the past 100 years, approval of this bill would allow the City to continue to encourage adaptive re-use of these structures as multiple-family dwellings, rather than leaving them to languish unoccupied while families in need of housing and families seeking to relocate to Baltimore are unable to have as great a choice as possible of communities to join. To the extent that unoccupied structures can also contribute to instability in a neighborhood, this bill also represents part of the larger effort to stabilize and enhance residential communities in the City.

Notification: 367 organizations were notified of this action by e-mail.



Thomas J. Stosur
Director